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JOHN F. DAVIS, CLERK

In the

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1964

No. 1034

HASKELL BULLY,
Appellant,

VERSUS

STATE OF OKLAHOMA,
Appellee.

APPENDIX TO JURISDICTIONAL STATEMENT

SID WHITE
Commerce Exchange Building
Oklahoma City, Oklahoma
Attorney for Appellant

April, 1965

UTTERBACK TYPESETTING CO., 13 SO. WALKER, OKLAHOMA CITY, PH. CE 2-8780

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Supreme Court of the United States
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HASKELL BILLY,
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APPENDIX "A"

INFORMATION

IN THE COMMON PLEAS COURT, IN AND FOR
OKLAHOMA COUNTY, STATE OF OKLAHOMA

The State of Oklahoma	)	
Plaintiff,	)	
vs.	)	29118
Haskel Emile Billy	)	Information
Defendant.	)	

In the name and by the authority of the State of Oklahoma, comes now JAMES H. HARROD, the duly qualified and acting County Attorney in and for Oklahoma County, State of Oklahoma, and on his official oath gives the Common Pleas Court in and for said Oklahoma County and the

State of Oklahoma to know and be informed that heretofore, to-wit:

on the 21st day of September A.D., 1962, in Oklahoma County, State of Oklahoma, whose more full and correct name HASKELL EMILE BILLY is to your informant unknown, then and there being, did then and there wilfully unlawfully and wrongfully commit the crime of OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR in the manner and form as follows, to-wit:

That is to say, the said defendant, in the county and state aforesaid, and on the day and year aforesaid, then and there being, did then and there wilfully, wrongfully and unlawfully, run, drive and operate a 1956 Mercury motor vehicle, bearing 1962 Oklahoma License No. 1-176721, at and upon a public street from an unknown point to a point at 1st and North Western, Oklahoma City, in said county and state, while under the influence of intoxicating liquor;'

contrary to the form of the statutes in such cases made and provided and against the peace and dignity of the State of Oklahoma.

JAMES H. HARROD
County Attorney, Oklahoma County

By James H. Harrod
James H. Harrod, County Attorney

STATE OF OKLAHOMA, OKLAHOMA COUNTY, SS.

I, J. C. NUTTER, being duly sworn on my oath, declare that the statements set forth in the above information are true.

J. C. Nutter

Subscribed and sworn to before me this 21st day of September, 1962.

Dale Smith, Court Clerk
By Ramona L. Fisher
Deputy

sp
sent Photocopy to
Sid White 10-5-62

FILED
In Court of Criminal Appeals
State of Oklahoma
OCT 28 1964
ANDY PAYNE
Clerk

IN THE COURT OF CRIMINAL APPEALS OF THE STATE OF OKLAHOMA

Haskell, Emile Billy,	)	
Plaintiff in Error,	)	
vs.	)	No. A-13,491
The State of Oklahoma,	)	
Defendant in Error.	)	

-SYLLABUS-

1. Where the defendant appeals from a judgment of conviction and no briefs are filed in support of the petition in error, this Court will examine the records only for fundamental error. If none appears of record the Judgment will be affirmed.

2. The record in the case at bar does not reveal any fundamental error. The evidence is sufficient to support the verdict.

An Appeal From the Common Pleas Court of Oklahoma County, Okla., Honorable Dwain D. Box, Judge.

[APPENDIX]

Haskell Emile Billy was convicted of the crime of Operating A Motor Vehicle While Under the Influence of Intoxicating Liquor, and appeals.
AFFIRMED.

Sid White, Oklahoma City, Oklahoma, Attorney for Plaintiff in Error.

Charles Nesbitt, Attorney General, Hugh H. Collum, Asst. Atty. Gen., Attorneys for Defendant in Error.

OPINION BY NIX, J.

JOHNSON, P. J. and
BUSSEY, J., CONCUR.
NIX, JUDGE:

Haskell Emile Billy was charged by Information in the Common Pleas Court of Oklahoma County with the crime of Operating a Motor Vehicle while Under the Influence of Intoxicating Liquor. He was tried by a jury, found guilty and sentenced to pay a fine of $1.00 and 10 days in the County Jail.

His appeal was lodged in this Court within the time prescribed by law on March 2, 1964, and no brief was filed by counsel for plaintiff in error, nor any request for an extension of time made to this Court within the time prescribed by law. Nor for that matter, until the day this cause was set for oral argument on a Motion to Dismiss by the State. On that day, September 23, 1964, (some 6 months later) counsel appeared in court and asked for time to brief. Request was denied, due to the length of time involved, and the cause was submitted on the record. Counsel for defendant then mailed to this office a copy of a dissertation labled "Brief of Petitioner." We have checked the clerks office and nothing was filed in their office. However, this writer has given it some consideration. It raises no

fundamental error, but only states counsel's same argument he has raised previously on two other appeals in this Court (Clark v. State, Okl.Cr. 383 P2d 236; Watson v. State, 375 P2d 352.) and which was settled prior to that in the case of Hanlan v. State, 96 Okl.Cr. 331, 254 P2d 373. This Court can see no reason to discuss this question further.

This Court has consistently and repeatedly held, as in the case of Crolley v. State, Okl.Cr. 377 P2d 63:

> "Where the defendant appeals from a judgment of conviction and no briefs are filed in support of the petition in error, this Court will examine the records only for fundamental error. If none appears of record the judgment will be affirmed."

The record has been examined carefully in the instant case, no fundamental error appears, and the evidence is sufficient to support the verdict of the jury.

The judgment and sentence of the trial court is hereby Affirmed.

JOHNSON, P.J., and
BUSSEY, J., CONCUR.